



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 1 June 2012

10609/12

**Dossier institutionnel:
2010/0383 (COD)**

**JUSTCIV 209
CODEC 1495**

NOTE

from:	the Presidency
to:	Council
N° prev. doc.:	10321/12 JUSTCIV 199 CODEC 1416 + ADD 1
N° Cion prop.:	18101/10 JUSTCIV 239 CODEC 1587
Subject:	Proposal for a Regulation of the European Parliament and of the Council on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (Recast) - First reading - General approach

1. By letter of 17 December 2010 the Commission transmitted to the Council and to the European Parliament a proposal for a Regulation on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (Recast).
2. The United Kingdom and Ireland have made the notification under Article 3 of the Protocol on the position of the United Kingdom and Ireland in respect of the Area of Freedom, Security and Justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, and will therefore take part in the adoption and application of the proposed Regulation.

3. In accordance with Articles 1 and 2 of the Protocol on the position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark does not take part in the adoption of the proposed Regulation and will not be bound by it or subject to its application, without prejudice to the possibility for Denmark of applying the amendments to Regulation (EC) No 44/2001 pursuant to Article 3 of the Agreement of 19 October 2005 between the European Community and the Kingdom of Denmark on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters.
4. The proposed Regulation is subject to the ordinary legislative procedure. Fruitful informal contacts have been held for information purposes with the European Parliament.
5. The European Economic and Social Committee adopted its opinion on the proposal on 5 May 2011.
6. The Working Party on Civil Law Matters (Brussels I) has examined the proposed Regulation at regular meetings since the transmission of the Commission proposal.
7. The Council (Justice and Home Affairs) adopted guidelines on a number of key issues relating to recognition and enforcement at its meeting on 13 and 14 December 2011. Those guidelines paved the way for further work on the proposed Regulation.
8. The discussions during the first half of 2012 have allowed considerable progress to be made on the text of the provisions. The Presidency is therefore of the opinion that the time has come for the Council to adopt a general approach with regard to the provisions and some key recitals of the proposed Regulation. The remainder of the recitals and the Annexes will be subject to further discussions and will be finalised as soon as possible after the meeting of the Council.

9. On 23 May 2012, Coreper expressed overall support for a first draft of the general approach presented by the Presidency, subject to further examination of a few outstanding issues still problematic to some delegations.
10. On 30 May 2012, Coreper examined a revised draft general approach presented by the Presidency as a compromise package. Coreper gave its support to that revised draft general approach, it being understood that the text may still undergo technical amendments and terminological changes in certain language versions and will, in any event, have to be reviewed by the legal/linguistic experts at a later stage.
11. On that occasion there was also broad support for the suggestion that the proposed Regulation should provide for an additional ground of jurisdiction relating to cultural objects based on the location of such objects, to be further examined at technical level and finalised after the meeting of the Council.
12. Against this backdrop, the Council is invited:
 - (a) to adopt as a compromise package the draft general approach set out in document 10609/12 JUSTCIV 209 CODEC 1495 ADD 1, and
 - (b) to take note that Article 5(2), the remainder of the recitals and the Annexes will be finalised at technical level as soon as possible after the Council.
